



OFFICE OF THE POLICE COMMISSIONER

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December 18, 2009

Memorandum for: Deputy Commissioner, Trials

Re: **Police Officer Ayotunde Adeniyi**
Tax Registry No. 934370
Housing Borough Manhattan
Disciplinary Case No. 83571/08

The above named member of the service appeared before Assistant Deputy Commissioner Claudia Daniels-DePeyster on May 15, 2009 and was charged with the following:

DISCIPLINARY CASE NO. 83571/08

1. Said Police Officer Ayotunde Adeniyi, assigned to Police Service Area No. 5, on or about December 2, 2006, January 30, 2007 and March 7, 2007, did engage in conduct prejudicial to the good order, efficiency or discipline of the Department in that said Officer did wrongfully and without just cause make three (3) inquiries via the Mobile Digital Terminal in RMP 9817, which were not related to the official business of the Department.

P.G. 219-14, Page 1, Paragraph 2

DEPARTMENT COMPUTER SYSTEMS

2. Said Police Officer Ayotunde Adeniyi, assigned as indicated in Specification No. 1, on or about February 17, 2007, did engage in conduct prejudicial to the good order, efficiency, or discipline of the Department in that said Officer did accept nine (9) gift cards valued at approximately \$400.00 in exchange for a PBA card.

P.G. 203-16, Page 1, Paragraphs 1 and 2

**GUIDELINES FOR ACCEPTANCE
OF GIFTS AND OTHER
COMPENSATION BY MEMBERS
OF THE SERVICE**

3. Said Police Officer Ayotunde Adeniyi, assigned as indicated in Specification No. 1, while off-duty, on or about March 29, 2007, at about 1155 hours, in Bronx County, did wrongfully engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: said Police Officer did fail a Department integrity test by accepting and utilizing a digital camera and shower radio that said Officer was not entitled to receive. (As amended)

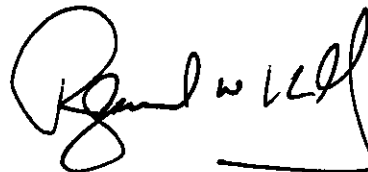
P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT - PROHIBITED
CONDUCT GENERAL REGULATION**

In a Memorandum dated October 16, 2009, Assistant Deputy Commissioner Daniels-DePeyster accepted the Respondent's pleading guilty to all Specifications. Having read the Memorandum and analyzed the facts of this instant matter, I approve the findings, but disapprove the recommended penalty.

I have considered the totality of issues and circumstances in this matter, in addition to reviewing the Respondent's prior performance and disciplinary history, and it is noted that the misconduct committed here involves serious deficiencies in judgment and integrity.

As such, in addition to the forfeiture of 45 Vacation days, as was recommended, the Respondent is also to be **DISMISSED** from the New York City Police Department; however, this penalty of dismissal will be held in abeyance pursuant to Section 14-115 (d) of the NYC Administrative Code for a period of one year, during which time the Respondent will remain on the force at the Police Commissioner's discretion and may be terminated at any time without a further hearing.

A handwritten signature in black ink, appearing to read 'Raymond W. Kelly', with a stylized flourish at the end.

Raymond W. Kelly
Police Commissioner



POLICE DEPARTMENT

October 16, 2009

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Ayotunde Adeniyi
Tax Registry 934370
Housing Borough Manhattan
Disciplinary Case No. 83571/08

The above-named member of the Department appeared before me on May 15, 2009, charged with the following:

1. Said Police Officer Ayotunde Adeniyi, assigned to Police Service Area No. 5, on or about December 2, 2006, January 30, 2007 and March 7, 2007, did engage in conduct prejudicial to the good order, efficiency or discipline of the Department in that said Officer did wrongfully and without just cause make three (3) inquiries via the Mobile Digital Terminal in RMP 9817, which were not related to the official business of the Department.

P.G. 219-14, Page 1, Paragraph 2 – DEPARTMENT COMPUTER SYSTEMS

2. Said Police Officer Ayotunde Adeniyi, assigned as indicated in Specification No. 1, on or about February 17, 2007, did engage in conduct prejudicial to the good order, efficiency, or discipline of the Department in that said Officer did accept nine (9) gift cards valued at approximately \$400.00 in exchange for a PBA card.

P.G. 203-16, Page 1, Paragraphs 1 and 2 – GUIDELINES FOR ACCEPTANCE
OF GIFTS AND OTHER
COMPENSATION BY MEMBERS
OF THE SERVICE

3. Said Police Officer Ayotunde Adeniyi, assigned as indicated in Specification No. 1, while off-duty, on or about March 29, 2007, at about 1155 hours, in Bronx County, did wrongfully engage in conduct prejudicial to the good order, efficiency, or

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discipline of the Department, to wit: said Police Officer did fail a Department integrity test by accepting and utilizing a digital camera and shower radio that said Officer was not entitled to receive. (*As amended*)

P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT – PROHIBITED
CONDUCT GENERAL REGULATION

The Department was represented by Lisa Bland, Esq., Department Advocate's Office, and the Respondent was represented by John Tynan, Esq.

The Respondent, through his counsel, entered a plea of Guilty to the subject charges. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

The Respondent, having pleaded Guilty, is found Guilty as charged.

EVIDENCE IN MITIGATION

The Respondent, a five-year member of the Department, is currently assigned to Housing Borough Manhattan. [REDACTED]

[REDACTED]

[REDACTED]

He was previously assigned to Police Service Area No. 5 but has been on modified duty status since November 2007.

The Respondent testified that he has a friend named Emilio, whom he has known since the third or fourth grade. In the fall of 2006, Emilio introduced him to an individual named Xavier. Xavier worked at a gas station, and the Respondent visited Xavier at work on approximately three occasions in late 2006 and early 2007. Xavier provided the

Respondent with gas at a discounted price. The Respondent stated that he had no further contact with Xavier, and he did not even know Xavier's last name at the time. At one point after Xavier asked Emilio if the Respondent could get him a Patrolmen's Benevolent Association (PBA) card, the Respondent met with Xavier to give him one. Emilio did not tell the Respondent anything about Xavier paying for the card, and the Respondent did not ask for compensation of any type. The Respondent testified that he and Xavier met in front of his girlfriend's building. Xavier was there with some man the Respondent had never met before. When the Respondent handed the card to Xavier, Xavier gave him gift cards to the Sharper Image. The Respondent thanked Xavier. He testified that at no point during the transaction did he indicate that he wanted something in return for the PBA card. The card that the Respondent gave Xavier had his shield number printed on the front. Although there is a signature line on the back of the card, the Respondent could not recall whether or not he signed it.

The Respondent testified that the gift cards he received from Xavier were not in any packaging, and there was no indication that the cards were stolen, counterfeit, or the proceeds of a criminal act. The Respondent stated that he did not realize at the time that he was violating Department procedure by receiving a gratuity or tip for the transfer of the PBA card. He believed that the rule about receiving a gratuity or tip applied only to situations "like if you're working on duty and trying to get special treatment, like special services or something like that, you shouldn't accept stuff like that." It was only at his Official Department Interview that he learned that there is no difference between off-duty and on-duty conduct concerning the acceptance of gratuities. Within 30 days of receiving the gift cards, the Respondent used them to purchase a radio and digital camera. At the time of purchase, he did not receive any notification that the cards were invalid or stolen.

The Respondent testified that at Emilio's request, he ran Emilio's name on a Mobile Digital Terminal (MDT). He explained that Emilio had been arrested for a suspended license in 2007 and was given a Desk Appearance Ticket. Emilio could not recall, though, which precinct he was arrested in, so the Respondent looked up that information to let Emilio know where to report to court. The Respondent did not use the MDT in an attempt to help Emilio avoid criminal liability. The Respondent also ran his own brother's name because his brother had received a couple of speeding tickets and wanted to know if a warrant had been issued. The query indicated that no warrant had been issued. The Respondent did not ask permission from a supervisor to conduct the inquiries on Emilio or his brother. He did not recall making a third unauthorized inquiry.¹

The Respondent testified that prior to being modified, he had made more than 200 arrests. He has never received an evaluation that was below standards. He has never before been the subject of Departmental charges. He was the subject of one Civilian Complaint Review Board allegation, but it was closed as unsubstantiated. Since being modified, he has been assigned to the Viper Unit, where he is responsible for monitoring cameras located inside public housing buildings. When he sees a crime in progress, he notifies the appropriate unit to handle the matter. He documents each of these notifications on a Closed Circuit Television Incident Report. [Respondent's Exhibit A consists of photocopies of 17 Closed Circuit Television Incident Reports that were prepared by the Respondent between May 4, 2008 and April 30, 2009.] The Respondent described a March 27, 2009 incident involving his observation of a hand-to-hand drug

¹ The Assistant Department Advocate explained that the Respondent ran his brother's name twice in the computer system.

sale. After notifying the 26 Precinct of the transaction he observed on camera, the drug dealer was arrested. At the time of arrest, the dealer was carrying pills and two ounces of cocaine. Another arrest that the Respondent assisted in was a case involving sexual misconduct and sexual abuse against a 14-year-old girl. In total, the Respondent has assisted in more than 20 arrests during his time in the Viper Unit.

On cross-examination, the Respondent testified that he did not know how Xavier was able to give him discounted gas. He was a police officer at the time, and he knew that going to Xavier for the discounted gas was improper. Emilio told the Respondent that Xavier would like a PBA card in late 2006 or early 2007. The Respondent did not question Xavier's motives for wanting a PBA card. The Respondent explained that most people want PBA cards because they can help in getting out of traffic tickets. The Respondent did not become suspicious by the fact that Xavier gave him gift cards in return for the PBA card. He stated that although gift cards are the equivalent of money, he did not consider the gift cards from Xavier to be payment for the PBA card. He considered it a gesture of gratitude. The camera and radio that he bought with the gift cards cost several hundred dollars. The Respondent testified that he is aware that he should not have accepted the gift cards. Similarly, he is aware that he should not have made the unauthorized inquiries on the MDT.

Upon questioning by the Court, the Respondent testified that the digital camera cost approximately \$200.00 and the radio cost approximately \$50.00. He stated that it did not cross his mind that he might be engaging in criminal conduct.

PENALTY

In order to determine an appropriate penalty, the Respondent's service record was examined. See Matter of Pell v. Board of Education, 34 N.Y.2d 222 (1974).

The Respondent was appointed to the Department on July 1, 2004. Information from his personnel file that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

The Respondent has pleaded Guilty to making three computer inquiries on an MDT that were not related to the official business of the Department. He explained that he ran the name of a childhood friend, Emilio, to let him know where to report to court. He did not use the MDT in an attempt to help Emilio avoid criminal liability. The Respondent also ran his brother's name to see if a warrant had been issued. The Respondent is aware that he should not have made these unauthorized inquiries on the MDT.

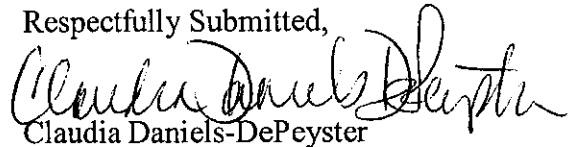
The Respondent has also pleaded Guilty to engaging in conduct prejudicial to the good order, efficiency, or discipline of the Department in that he accepted nine gift cards valued at approximately \$400.00 in exchange for a PBA card and then used the gift cards to purchase a digital camera and radio that he was not entitled to receive. The Respondent explained that he did not ask for compensation of any type for the PBA card, nor did he indicate that he wanted something in return for the card. He further explained that when Xavier (someone he barely knew) gave him the gift cards, he did not even consider it a payment for the PBA card. Instead, he considered it a gesture of gratitude. There was no indication that the cards were stolen, counterfeit, or the proceeds of a criminal act. The Respondent testified that he is, nevertheless, aware that he should not have accepted the gift cards.

Although the Respondent exhibited poor judgment by accepting and using the gift cards, the Department raised no suggestion that he was involved in any sort of criminal activity. In addition, the Respondent testified credibly and remorsefully at trial. Furthermore, while he has not served as police officer for long, he has proven himself to be an active and enthusiastic member of the service, particularly assisting in 20 arrests while on Modified Assignment at the Viper Unit.

In Disciplinary Case No. 84786/08, a six-year member with no prior disciplinary record forfeited 15 vacation days for running a license plate in the Department computer system for reasons unrelated to Department business. In Disciplinary Case No. 79786/04, a six-year member forfeited ten vacation days for accepting an American Express Gift Cheque in the amount of \$125 from his Police Academy students.

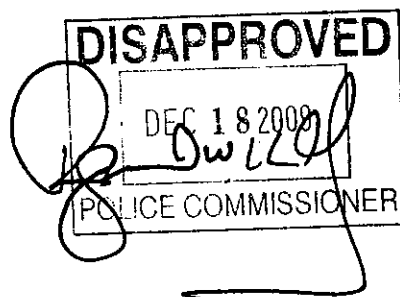
Based on the foregoing and the Respondent's plea of Guilt in this matter, I recommend that the Respondent forfeit 45 vacation days.

Respectfully Submitted,



Claudia Daniels-DePeyster

Assistant Deputy Commissioner – Trials



POLICE DEPARTMENT
CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER AYOTUNDE ADENIYI
TAX REGISTRY NO. 934370
DISCIPLINARY CASE NO. 83571/08

In 2007 and 2009, the Respondent received an overall rating of 3.5 “Highly Competent/Competent” on his annual performance evaluation. In 2006, he received an overall rating of 4.0 “Highly Competent.” The Respondent has one medal for Meritorious Police Duty. [REDACTED]

[REDACTED] In June 2008, he was placed on Level-II Discipline Monitoring. The Respondent has no prior formal disciplinary record.

For your consideration.



Claudia Daniels-DePeyster
Assistant Deputy Commissioner – Trials